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# Reauthorization: Williams/Coleman Compromise (October 27, 1990): Report 10

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Sandy

Summary  
for Williams-Coleman Proposal  
Reauthorizing the National Endowment for the Arts

I. NEA Funding Must Be Sensitive to Public Sponsorship

Language is added to the Declaration of Findings and Purposes stating "that the arts and the humanities belong to all the people of the United States; that the Government must be sensitive to the nature of public sponsorship, and that funding of the arts is subject to the conditions of public accountability that govern the use of public money." Additionally, "the arts should reflect the nation's rich cultural heritage and foster mutual respect for the diverse beliefs and values of all persons and groups."

II. Artistic Excellence and Artistic Merit

The Chairperson of the National Endowment for the Arts is required to ensure that artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

III. Obscenity

Language specifies that obscenity is without artistic merit and is not protected speech. The proposal makes clear that Constitutional prohibitions against obscenity apply to the NEA.

A. Court Determination of Obscenity

While the Act makes clear that NEA may not fund obscenity, the determination of obscenity is left to the Courts. The proposal adds a definition of obscenity to be used by the courts in making a determination. The term "obscene" is based on the Miller v. California standard and means with respect to a project, production, workshop, or program that:

- (1) the average person, applying contemporary community standards, would find that the work, when taken as a whole, appeals to the prurient interest;
- (2) depicts or describes sexual conduct in a patently offensive way, and
- (3) lacks serious literary, artistic, political, or scientific value, when taken as a whole.

B. Repayment to NEA

After notice and opportunity for a hearing on record, should the Chairperson determine that the work of a recipient of financial assistance from the NEA (or through a subgrant by any other public or

private agency or organization) has been deemed obscene by a court, the NEA will recapture funds awarded for such work.

Additionally, the recipient is disqualified from eligibility for future NEA funds for a period of three years and until all funds are repaid to the Endowment.

These sanctions shall not apply to works funded by NEA before enactment of this Act. Additionally, they may not be in effect for more than seven years after the award of a grant by the NEA.

## II. Application Procedures

--Applications for grants must include a detailed description of the proposed project and a timetable for completion.

--Conditions of the grant award or financial assistance include an assurance by applicant that the product or production will meet the standards of artistic excellence and artistic merit as required by the Act.

--Site visitations will be required, when necessary and feasible, to view the work of an applicant and a report given to the grant advisory panel to assist in their evaluation.

--Applicants will submit interim reports detailing progress and compliance with terms and conditions of the award, except in those cases the Chairperson determines not practicable; annual reports will be required for multi-year grants.

--Distribution of grant awards will be made in multiple installments, except in those cases which the Chairperson finds that the procedure is impracticable. Two-thirds of the award will be provided at the time the application is approved; the final one-third will be disbursed upon NEA approval of interim report.

--A final report on the project is required within 90 days of the completion of the grant award period.

--Penalties for noncompliance with terms and conditions of the contract include the recapture of federal funds and disqualification from future eligibility until compliance accomplished.

## III. Role, Responsibilities and Composition of Advisory Panels

--Panels are authorized to make recommendations to the National Council for the Arts solely on the basis of standards of artistic excellence and merit.

--Panels are broadened, when practicable, to include individuals reflecting a wide geographic, ethnic, and racial representation, as

well as individuals reflecting diverse artistic and cultural points of view.

--Panels will include knowledgeable "lay persons."

--Individual panelists are limited to three consecutive years of service on a panel and membership of each panel must change substantially each year.

--No individual who has a pending application from the NEA or who is an employee or agent of an organization with a pending application can serve as a member of any panel before which such an application is pending.

--Panels are required to create written records summarizing the meetings and discussions of each panel and the recommendations by the panel to the Chairperson. These records are to be made available to the public in a manner which protects the privacy of applicants for financial assistance and individual panel members.

#### V. National Council on the Arts

--The Council will make recommendations to the Chairperson concerning funding and funding levels of applications that have been determined by the advisory panels to have artistic excellence and artistic merit.

--All policy meetings of the National Council for the Arts shall be open to the public.

--The Council must keep records, summarizing meetings, discussions, and funding decisions and must make these records available to the public in the same manner as the grant advisory panels.

#### VI. Chairperson of the National Endowment for the Arts

--The Chairperson of the NEA has the final authority to approve or disapprove recommendations concerning funding and funding levels of applications made by the Council. The Chairperson may not approve an application that has not been approved by the Council.

#### VII. State Funding

--Funds allocated to the States for Basic State Grants (BSG) will be increased from 20 to 25 percent in fiscal years 1991--1992, and increased to 27.5 percent in fiscal year 1993.

--An additional 5 percent of NEA program funds in fiscal years 1991 and 1992 will be reserved for funds for competitive grants to state and local arts organizations for programs to expand public

access to the arts in rural and inner-city areas. The percentage will be increased to 7.5 percent in fiscal year 1993.

--The current 80-20 ratio of the federal and state percentages of program funds will be 65-35 by fiscal year 1993.

#### VIII. New Initiatives and New Program Priorities

--A new authority is created for arts education. Includes initiatives to promote arts instruction for students, teachers, and artists, and strengthen and support research and demonstration projects in arts education and the dissemination of information.

-- --Projects which have substantial national or international artistic or cultural significance are encouraged as are projects that broaden public access to the arts through film, television productions, radio, video, and other media.

--A challenge grant program is authorized for "developing arts organizations" of high artistic promise which can expand public access to the arts in rural and inner city areas.

#### VIII. GAO Reports to Congress

--A study of federal, state, and local funding of the arts is required.

--A study of the program staffing and use of consultants and independent contractors by the NEA is required.

#### IX. Length of Authorization

--Three years. (The length of authorization applies to the NEA, the National Endowment for the Humanities, and the Institute of Museum Services.)